

TO REIMBURSE FIRE INSURANCE COMPANIES FOR PAYMENTS MADE
FOR PROPERTY DESTROYED BY FIRE IN SUPPRESSING BUBONIC
PLAGUE IN HAWAII.

FEBRUARY 28, 1910.—Ordered to be printed.

Mr. CRAWFORD, from the Committee on Claims, submitted the following

REPORT.

[To accompany S. 3806.]

The Committee on Claims, to whom was referred Senate bill 3806, have examined the same and report it favorably.

In support of this favorable report your committee beg leave to submit the following facts:

In the years 1899 and 1900, in order to prevent the spread of the bubonic plague in Honolulu, Hawaii, the American authorities at Honolulu destroyed by fire many buildings and other property in a large portion of the infested district. The insurance companies named in the accompanying bill had good and valid outstanding policies upon property thus destroyed. Several test suits were brought by the policy holders to recover the amounts of their losses under such policies and in each case the policy holder recovered judgment.

This entire matter was examined by the Committee on Claims and a favorable report made in two instances. Your committee refers to Senate Report No. 1933, dated January 16, 1902, Fifty-seventh Congress, first session; also to Senate Report No. 295, dated February 26, 1908, Sixtieth Congress, first session.

The several companies named in the bill actually paid the amounts named in the bill to the policy holders and have furnished satisfactory proof in the form of receipts, acknowledgments, affidavits, proofs of loss, transcripts of judgments, satisfaction pieces, etc., to establish the payment.

No appropriation has heretofore been made to cover the losses mentioned in the pending bill.

The total amount provided for in this bill is \$82,225, of which \$13,400 is for American companies, \$13,800 for German companies, and \$38,025 for English companies. After the fire, which was ordered by the Government of the United States, Congress promptly recog-

nized the liability of the Government for all losses sustained by reason thereof and paid said losses, with the exception of the losses paid to the policy holders by the insurance companies.

When the insurance companies paid these losses they became subrogated to all of the rights of the original property owners and are entitled to be reimbursed for the amounts paid by them.

The recommendation made by your committee does not include any accrued interest, costs of suit, or attorneys' fees. The English and German Governments have, through their respective ambassadors, made representations to this Government respecting the payment of the claims of the companies of their respective Governments, and the Secretary of State at the time (Hon. Elihu Root), having investigated the situation, recommended such legislation. This recommendation is concurred in by his successor, the present Secretary of State. (See correspondence attached.)

A plague existed in Honolulu. The authorities decided that it could be stamped out only by burning and destroying this property.

The companies made the defense that, since the Government had destroyed the property, they should not be held to pay the loss, but the courts held otherwise, and the companies were compelled to pay. They became subrogated to all of the rights of the property owners, and it is the plain duty of the Government to pay back to the companies the amounts they were thus compelled to pay because of the act of the Government in destroying the property.

The following is a list of the companies, together with the number of such policies, the amounts thereof, and the amount paid on each policy, exclusive of interest and costs:

	No. of policy.	Amount of policy.	Amount paid, ex- clusive of interest and costs.
1. Transatlantic Fire Insurance Co	1115	\$2,000	\$2,000
	1158	5,000	5,000
	1907	1,500	1,500
	2031	1,000	1,000
Total (policies 4)			9,500
2. Prussian National Fire Insurance Co.....	913	1,000	1,000
	961	1,500	1,500
	909	250	350
Total (policies 3)			2,850
3. North German Fire Insurance Co.....	757	1,000	1,000
	758	1,000	1,000
	1016	1,500	1,500
	1117	1,000	1,000
	1226	1,000	1,000
	1786	1,000	1,000
	1826	1,500	1,500
Total (policies 7)			8,000
4. Hamburg-Bremen Fire Insurance Co.....	9187	1,000	1,000
	9338	3,000	3,000
	9411	2,000	2,000
	9492	1,150	1,150
	9637	500	500
	9654	800	800
	9758	2,000	2,000
Total (policies 7)			10,450

	No. of policy.	Amount of policy.	Amount paid, ex- clusive of inter- est and costs.
5. Royal Insurance Co	4860947	\$900	\$900
	4861195	500	500
	4861203	1,000	1,000
	5853336	500	500
	5853337	750	750
	5853366	1,000	1,000
	5853464	1,000	1,000
	5853473	700	700
	5853477	900	900
	5853569	500	500
	5853578	500	500
	5853585	1,000	1,000
	5853601	1,000	1,000
	5853626	700	700
	5853640	1,000	1,000
	5853645	1,500	1,500
	5853659	400	400
	5853684	1,500	1,500
	5853699	500	500
	5853712	500	500
	5853720	1,250	1,250
	5853725	600	600
	5853740	300	300
	5853742	600	600
	5853761	2,000	2,000
	5853767	1,000	1,000
	5853789	1,000	1,000
	5853844	2,000	2,000
Total (policies 28)			25,100
6. Liverpool-London and Globe Insurance Co.	3540997	2,000	2,000
	3541038	2,000	2,000
	3541039	1,000	1,000
	3541061	1,500	1,500
	3541083	400	400
Total (policies 5)			6,900
7. New Zealand Fire Insurance Co.	24	1,000	1,000
	29	1,500	1,500
	30	1,000	210
	39	1,000	1,000
	66	500	500
	74	015	015
	78	1,500	1,500
	80	300	300
Total (policies 8)			6,025
8. Fireman's Fund Insurance Co.	627778	400	400
	627780	1,250	1,250
	627807	500	500
	627844	600	600
	627852	2,000	2,000
	627858	1,500	1,500
	627873	1,000	1,000
	627925	2,000	2,000
Total (policies 8)			9,250
9. National Fire Insurance Co. of Hartford, Conn.	115345	2,000	2,000
	115362	1,500	1,500
	115367	350	
	115371	300	300
Total (policies 4)			4,150

The following is the correspondence of the Department of State above referred to:

DEPARTMENT OF STATE,
Washington, April 4, 1906.

SIR: It has been brought to the attention of the department that in 1899 and 1900 the American authorities at Honolulu, in order to check the spread of the bubonic plague, then epidemic in that city, destroyed many buildings in the infected district by fire; that a commission was appointed under an act of the legislature of Hawaii

to hear and adjudicate all claims for property destroyed by order of the authorities in the suppression of the plague, which has rendered judgments aggregating a little more than \$1,500,000, and that by act of Congress of January 26, 1903, an appropriation of \$1,000,000 was made to pay such judgments and an issue of bonds of Hawaii authorized to liquidate the balance of the claims.

Much of the property so destroyed had been insured, but most of the policies contained a protecting clause, known as the New York standard form, exempting the insurers from liability for any loss for property destroyed by the act of the civil authorities. In all of this class of cases the department understands that awards were made by the commission to cover such losses.

It has been represented to the department that in other cases, particularly in the case of some foreign insurance companies, there was no protecting clause in the policy, and in these cases the holders recovered the face of their policy from the companies. It would appear that in some of these cases the beneficiaries executed "articles of subrogation," assigning their claim to the extent of the face of the policy to the insurers. In others the entire claim appears to have been so assigned.

The fire-claims commission, it is represented, has failed to make awards to the companies on their subrogated rights, and a bill has been introduced in Congress, S. 3900, to reimburse these companies to the extent of their losses. The ambassadors of Great Britain and Germany have made representations to the department on the subject and have informed it that they would gladly welcome the passage of the bill as an act of equity.

While the department has not investigated the claims individually for the purpose of ascertaining the amounts of the losses suffered by the companies in question, it would be glad to indorse any legislation having for its object the reimbursement of these companies for the actual losses which they sustained as an immediate consequence of the fire.

I have the honor to be, sir, your obedient servant,

ELIHU ROOT.

HON. JOSEPH B. FORAKER,

Chairman Committee on Pacific Islands and Porto Rico, United States Senate.

DEPARTMENT OF STATE,
Washington, January 13, 1909.

SIR: I have the honor to invite your attention to the letter of April 4, 1906 (a copy of which is inclosed herewith), from the Secretary of State to the Hon. Joseph B. Foraker indorsing any legislation having for its object the reimbursement of certain fire insurance companies for the actual losses sustained by them as the immediate consequence of the fire employed by the Government in the suppression of the bubonic plague in the Territory of Hawaii in the years 1899 and 1900.

A bill for the relief of these claimants having passed the Senate March 26 last (Senate bill 1368, 60th Cong., 1st sess.), and being at present before the Committee on Claims of the House of Representatives, I have the honor to bring the matter to your notice, as the British and German embassies are very anxious on behalf of the interested British and German insurance companies that appropriate legislation may be enacted during this session of Congress.

I have the honor to be, sir, your obedient servant,

ROBT. BACON,
Acting Secretary.

HON. JAMES M. MILLER,

Chairman Committee on Claims, House of Representatives.

JANUARY 15, 1910.

SIR: Adverting to the bill recently introduced in the Senate by the Hon. Frank P. Flint to reimburse certain fire insurance companies the amounts paid by them for property destroyed by fire employed by this Government in suppressing bubonic plague in the Territory of Hawaii in the years 1899 and 1900, and to the department's communication to you of the 21st ultimo, I have the honor to transmit for your consideration copy of a letter of April 4, 1906, addressed to the chairman of the Committee on Pacific Islands and Porto Rico, showing the department's attitude toward the passage of such legislation and a copy of the department's communication of January 13, 1909, informing the Committee on Claims of the House of the desire of the British and German ambassadors at this capital that appropriate action be taken during the present session of Congress for the payment of these claims.

I have the honor to be, sir, your obedient servant,

P. C. KNOX.

HON. HENRY E. BURNHAM,

Chairman Committee on Claims, United States Senate.

DECEMBER 21, 1909.

SIR: I have the honor to invite your attention to a bill introduced on December 10, 1909, by Senator Flint (S. 3806, 61st Cong., 2d sess.), having for its object the reimbursement of certain fire insurance companies for losses sustained by them as a result of fire employed by the Government in suppressing the bubonic plague in 1899 and 1900 in the Territory of Hawaii, and which bill, I am informed, has been reported to your committee.

In bringing this matter to your notice I beg to call your attention to the length of time that has elapsed since these losses were incurred, and to inform you that the British and German ambassadors, in behalf of the foreign insurance companies, are greatly desirous that appropriate action be taken by Congress during the present session.

I have the honor to be, sir, your obedient servant,
For Mr. Knox:

HUNTINGTON WILSON,
Assistant Secretary of State.

HON. HENRY E. BURNHAM,
*Chairman Committee on Claims,
United States Senate.*

The following form of subrogation was executed by each policy holder to the insurance company at time of settlement:

ARTICLE OF SUBROGATION.

Be it known that the Royal Insurance Company, of Liverpool, did insure me, Lam Tai, under its policy No. 4860947, renewal receipt No. 1692352, issued at its Honolulu, Hawaii, agency, as follows: Two hundred and fifty dollars on the two-story frame shingled-roof building, occupied by the insured as a general store and dwelling, situate in the northeast corner of Queen and Manuahea streets, Honolulu, Hawaii, block 5, lot 20; \$750 on all merchandise, while contained in the building above described. Other insurance, \$1,000 Alliance, for one year, commencing on the 24th day of April, 1899, and continuing until the 24th day of April, 1900.

Further, that on the 20th day of January, 1900, a fire occurred by which the property so insured was damaged or destroyed to the amount of \$3,148, said fire having spread from a fire caused by the order of a civil authority, to wit, the board of health.

Now, therefore, I, Lam Tai, in consideration of \$952.05, to me in hand paid by the said Royal Insurance Company, of Liverpool, in full settlement of my claim against said company, by reason of said loss, damage, and policy of insurance, I do hereby assign, set over, transfer and subrogate to the said Royal Insurance Company, of Liverpool, all the right, claims, interest, choses or things in action, to the extent of \$952.05, paid me as aforesaid, which I may have against the Territory of Hawaii, or any other party, person, or corporation who may be liable, or hereafter adjudged liable, for the burning or destruction of said property, and hereby authorize and I empower the said Royal Insurance Company, of Liverpool, to sue, compromise, or settle in my name or otherwise, and it is hereby fully substituted in my place and subrogated to all my rights in the premises to the amount so paid, it being expressly stipulated that any action taken by said company shall be without charge or cost to me, Lam Tai.

LAM TAI.

Signed, sealed, and delivered in presence of—
[SEAL.]

Dated, Honolulu, December 26, 1900.

W. J. ROBINSON.

The exemption clauses in the several policies involved were in form as given below:

ENGLISH—ROYAL INSURANCE COMPANY.

This policy does not cover loss or damage by fire happening during the existence of any invasion, foreign enemy, rebellion, insurrection, riot, civil commotion, military or usurped power, or martial law, within the country or locality in which the property insured is situated, unless proof be made to the satisfaction of the directors that such loss or damage was not occasioned by, or connected with, but occurred from a cause or causes independent of the existence of such invasion, foreign enemy, rebellion, insurrection, riot, civil commotion, military or usurped power, or martial law. * * *

GERMAN—TRANSATLANTIC INSURANCE COMPANY.

That this company shall not be liable for any loss or damage caused by means of invasion, insurrection, riot, civil commotion, or military or usurped power, or in consequence of any neglect or deviation from the laws or regulations of police, where such exist. * * *

AMERICAN—FIREMANS FUND INSURANCE COMPANY.

This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority to prevent the spread of fire, whether such order be legal or not, nor in consequence of any neglect of or deviation from police or municipal laws, rules, or ordinances, where such exist, or by theft. * * *

STANDARD FORM WHICH DID EXEMPT WHERE LOSS WAS CAUSED BY ORDER OF CIVIL GOVERNMENT.

This company shall not be liable for loss caused directly or indirectly by invasion, insurrection, riot, civil war or commotion, or military or usurped power, or by order of any civil authority, or by theft. * * *

